

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KEDWIN PAYAMPS,

Plaintiff,

-against-

**ANSWER TO DEFENDANT
LANCE'S CROSS-CLAIMS ON
BEHALF OF DEFENDANT CITY
OF NEW YORK.**

THE CITY OF NEW YORK; MAYOR BILL DE BLASIO;
NEW YORK CITY POLICE DEPARTMENT ("NYPD")
COMMISSION DERMOT SHEA; NYPD CHIEF OF
DEPARTMENT TERENCE MONAHAN; NYPD
INSPECTOR JESSE LANCE; NYPD OFFICER COREY
JOHNSON; FIRST NAME UNKNOWN ("FNU")
AUGUSTE (Tax I.D. 961629); and NYPD MEMBERS
JOHN AND JANE DOES 1-7.

Defendants.

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22-CV-0563 (AMD) (VMS)

Defendant City of New York, by its attorney, the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, for its answer to the cross-claims of defendant Jesse Lance, filed on or about July 27, 2022, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "289" of the cross-claim.
2. Denies the allegations set forth in paragraph "290" of the cross-claim.
3. Denies the allegations set forth in paragraph "291" of the cross-claim.
4. Denies the allegations set forth in paragraph "292" of the cross-claim and respectfully refers the Court to the cited statute for a full and accurate recitation of its contents.
5. Denies the allegations set forth in paragraph "293" of the cross-claim and respectfully refers the Court to the cited statute for a full and accurate recitation of its contents.

6. Denies the allegations set forth in paragraph “294” of the cross-claim and respectfully refers the Court to the cited statute for a full and accurate recitation of its contents.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

7. The cross-claims fail to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

8. Co-defendant Lance’s cross-claims against defendant City of New York are not ripe for adjudication.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

9. Defendant City of New York has not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has defendants violated any act of Congress providing for the protection of civil rights.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

10. Any injury alleged to have been sustained resulted from plaintiff’s and/or co-defendant Lance’s own culpable or negligent conduct and/or the intervening culpable and/or negligent conduct of others, non-parties or third parties for whom defendants City of New York, de Blasio, Shea, Monahan, Johnson, and Auguste were not responsible, and were not the proximate result of any act of defendants City of New York, de Blasio, Shea, Monahan, Johnson, and Auguste.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

11. Co-defendant Lance was not acting in furtherance of her employment and/or in accordance with New York Gen. Mun. Law § 50-K et. seq.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

12. The Court lacks subject matter jurisdiction over the Cross Complaint against the City.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE TO THE CROSS-CLAIMS

13. At all times relevant to the acts alleged in the Complaint, the City of New York acted reasonably in the proper and lawful exercise of its discretion. Consequently, the City is entitled to governmental immunity.

WHEREFORE, defendant City of New York requests judgement dismissing the cross-claims in their entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
September 2, 2022

HON. SYLVIA O. HINDS-RADIX
CORPORATION COUNSEL OF THE CITY OF NEW YORK
Attorney for defendants City of New York, de Blasio, Shea, Monahan, Auguste, and Johnson.
100 Church Street
New York, New York 10007

Respectfully submitted,

By: */s/ Michael Pesin-Virovets*
Michael Pesin-Virovets
Senior Counsel

cc: **By ECF:**

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